

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

JOE NATHAN WILLIAMSON,

Plaintiff,

v.

NEW MADRID CIRCUIT COURT, et al.,

Defendants.

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No. 1:21-CV-131-SNLJ

**MEMORANDUM AND ORDER**

This matter is before the Court on the motion of plaintiff Joe Nathan Williamson, an inmate at the Eastern Reception, Diagnostic and Correctional Center (“ERDCC”), for leave to commence this civil action without prepaying fees or costs. Having reviewed the motion and the financial information submitted in support, the Court has determined to grant the motion, and assess an initial partial filing fee of \$1.00. Additionally, for the reasons discussed below, the Court will give plaintiff the opportunity to file an amended complaint, and will deny without prejudice the motion to appoint counsel.

**28 U.S.C. § 1915(b)(1)**

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action *in forma pauperis* is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner’s account, or (2) the average monthly balance in the prisoner’s account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month’s income credited to his account. 28

U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the account exceeds \$10.00, until the filing fee is fully paid. *Id.*

Plaintiff submitted two inmate account statements in support of the instant motion. The first is from the Mississippi County Jail where he was previously incarcerated. It details plaintiff's inmate account for the period beginning August 30, 2021 and ending September 24, 2021, and shows that plaintiff's ending account balance was \$.07. The second account statement is from the ERDCC, the facility to which plaintiff was transferred. It contains no entries. The Court will assess an initial partial filing fee of \$1.00, an amount that is reasonable based upon the information before the Court. *See Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997). Any claim that plaintiff is unable to pay that amount must be accompanied by a certified copy of plaintiff's inmate account statement that contains information about his current finances.

#### **Legal Standard on Initial Review**

This Court is required to review complaint filed *in forma pauperis*, and must dismiss it if it is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). An action is frivolous if it “lacks an arguable basis in either law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). An action fails to state a claim upon which relief may be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

A claim is facially plausible when the plaintiff “pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Although a plaintiff need not allege facts in painstaking detail, the facts alleged “must be enough to raise a right to relief above the

speculative level.” *Twombly*, 550 U.S. at 555. This standard “demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678. Determining whether a complaint states a plausible claim for relief is a context-specific task that requires the reviewing court to draw upon judicial experience and common sense. *Id.* at 679. The court must assume the veracity of well-pleaded facts, but need not accept as true “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Id.* at 678 (citing *Twombly*, 550 U.S. at 555).

This Court must liberally construe complaints filed by laypeople. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). This means that “if the essence of an allegation is discernible,” the court should “construe the complaint in a way that permits the layperson’s claim to be considered within the proper legal framework.” *Solomon v. Petray*, 795 F.3d 777, 787 (8th Cir. 2015) (quoting *Stone v. Harry*, 364 F.3d 912, 914 (8th Cir. 2004)). However, even *pro se* complaints must allege facts which, if true, state a claim for relief as a matter of law. *Martin v. Aubuchon*, 623 F.2d 1282, 1286 (8th Cir. 1980). Federal courts are not required to assume facts that are not alleged, *Stone*, 364 F.3d at 914-15, nor are they required to interpret procedural rules so as to excuse the mistakes of those who proceed without counsel. *See McNeil v. United States*, 508 U.S. 106, 113 (1993).

### **The Complaint**

Plaintiff filed the complaint pursuant to 42 U.S.C. § 1983 against the New Madrid Circuit Court, the Sikeston Department of Public Safety, the Scott County Sheriff’s Department, the New Madrid Sheriff’s Department, “Sikeston Probation and Parole,” the Missouri Department of Corrections (“MDOC”), Sergeant John Chambers, Sheriff Wes Drury, and Nurse Joe Unknown. He sues Drury and Joe Unknown in their official capacities, and he sues Chambers in his

“official/unknown” capacity. In the body of the complaint, plaintiff indicates an intent to sue one Jonathan Rasnic, a Probation and Parole officer, in his official capacity. Plaintiff alleges as follows.

In May of 2020, plaintiff was arrested based upon a “probation hold” issued by Officer Rasnic, and held at the Sikeston Department of Public Safety. Unidentified persons ignored his requests for phone calls and information. Three days later, a corrections officer escorted him from general population to protective custody, and told him he was not supposed to be there. Plaintiff was transferred to Mississippi County and went to court, where “Judge Reeves apologizes for the mistake reinstates and released me from custody same day.” It is unclear what particular claims plaintiff intends to bring against which defendants.

Next, plaintiff claims he was denied adequate medical care for a hand injury. He alleges that in June, while a pretrial detainee at the Scott County Jail, he slipped in the shower and hurt his right hand. He told Nurse Joe Unknown, and asked to see a doctor. Plaintiff then states his “request was ignored over the course of 3 weeks my hand swell and hurt Nurse Joe gave me Motrin and a steroid from the Doctor. My verbal requests to see the doctor still ignored.”

Plaintiff filed a grievance with Sgt. Chambers, and was taken to an outside medical facility where his hand was x-rayed. He did not see a doctor. Later, plaintiff was taken to a different facility, where he was seen by a doctor and told his hand was broken. Plaintiff was given a brace, and told to have follow-up care. In July, while plaintiff was on his way to the follow-up appointment, Scott County canceled and rescheduled the appointment due to staffing issues. Plaintiff ultimately went to the follow-up appointment in August and had x-rays, and was informed about his treatment options. He was also told to use the brace, and perform stretches.

He writes: “Lack of Scott County Jail policy & procedure negligence of Scott Counties Nurse resulted in deliberate indifference and undue delay of medical treatment of my broken hand.”

### **Discussion**

Because of the way plaintiff prepared the complaint, the Court cannot discern, with any certainty, what claims he intends to bring against what defendants concerning the May 2020 arrest and detention. It is clear that plaintiff intends to claim Nurse Joe Unknown violated his Fourteenth Amendment rights by denying him adequate medical care for a hand injury while he was a pretrial detainee at the Scott County Jail. However, plaintiff’s allegations do not establish that he had an objectively serious medical need, and that Nurse Joe Unknown or anyone else actually knew of, and yet deliberately disregarded that need, as necessary to state a plausible Fourteenth Amendment claim. *See generally Jackson v. Buckman*, 756 F.3d 1060, 1065 (8th Cir. 2014) (deliberate indifference standard applies to claims by pretrial detainees under the Fourteenth Amendment and convicted inmates under the Eighth Amendment).

It is not entirely clear why plaintiff seeks to sue the State and municipal agencies he has named as defendants. Generally, however, without consent, “a suit in which the State or one of its agencies or departments is named as the defendant is proscribed by the Eleventh Amendment.” *Egerdahl v. Hibbing Cmty. Coll.*, 72 F.3d 615, 618-19 (8th Cir. 1995). Entities such as sheriff’s departments are simply departments of local government, and not themselves entities subject to suit under § 1983. *See Ketchum v. City of West Memphis, Ark.*, 974 F.2d 81, 82 (1992) (entities such as police departments are “not juridical entities suable as such. They are simply departments or subdivisions of the City government”). Even if plaintiff had named the municipality as a defendant, the complaint would not state a claim of municipal liability. *See Monell v. Dept. of Social Services of City of New York*, 436 U.S. 658, 690-91 (1978).

Finally, the complaint advances multiple claims against multiple defendants concerning unrelated events. This is an impermissible pleading practice.” Rule 20(a)(2) of the Federal Rules of Civil Procedure governs joinder of defendants, and provides:

Persons . . . may be joined in one action as defendants if: (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action.

Therefore, a plaintiff cannot join, in a single lawsuit, multiple claims against different defendants related to events arising out of different transactions or occurrences. Unrelated claims against different defendants belong in different suits, partly to ensure that prisoners pay the required filing fees. The Prison Litigation Reform Act limits to 3 the number of frivolous suits or appeals that any prisoner may file without prepayment of the required fees. 28 U.S.C. § 1915(g).

Rule 18(a) of the Federal Rules of Civil Procedure governs joinder of claims, and provides:

A party asserting a claim to relief as an original claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as alternate claims, as many claims, legal, equitable, or maritime, as the party has against an opposing party.

Therefore, multiple claims against a single defendant are valid.

Plaintiff will be given the opportunity to file an amended complaint. Plaintiff is advised that the amended complaint will replace the original. *See In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005) (“It is well-established that an amended complaint supersedes an original complaint and renders the original complaint without legal effect”). Plaintiff must type or neatly print the amended complaint on the Court’s prisoner civil rights complaint form, which will be provided to him. *See* E.D. Mo. L.R. 2.06(A) (“All

actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms where applicable.”).

In the “Caption” section of the complaint form, plaintiff should write the name of the person he intends to sue. *See* Fed. R. Civ. P. 10(a) (“The title of the complaint must name all the parties”). Plaintiff must avoid naming anyone as a defendant unless that person is directly related to his claim. Plaintiff must also specify whether he intends to sue each defendant in an official capacity, individual capacity, or both.<sup>1</sup> In the “Statement of Claim” section, plaintiff should begin by writing the defendant’s name. In separate, numbered paragraphs under that name, plaintiff should set forth a short and plain statement of the facts that support his claim or claims against that defendant. *See* Fed. R. Civ. P. 8(a). Each averment must be simple, concise, and direct. *See id.* Plaintiff must state his claims in numbered paragraphs, and each paragraph should be “limited as far as practicable to a single set of circumstances.” *See* Fed. R. Civ. P. 10(b).

If plaintiff names a single defendant, he may set forth as many claims as he has against that defendant. *See* Fed. R. Civ. P. 18(a). If plaintiff names more than one defendant, he should only include claims that arise out of the same transaction or occurrence, or simply put, claims that are related to each other. *See* Fed. R. Civ. P. 20(a)(2).

It is important that plaintiff allege facts explaining how the defendant was personally involved in or directly responsible for harming him. *See Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990). Plaintiff must explain the role of the defendant, so that the defendant will have notice of what he or she is accused of doing or failing to do. *See Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 848 (8th Cir. 2014) (stating that the essential function of a complaint “is to give the opposing party fair notice of the nature and basis or grounds for a

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<sup>1</sup> A suit against a public official in his or her official capacity is actually a suit against the entity for which the official is an agent. *Elder-Keep v. Aksamit*, 460 F.3d 979, 986 (8th Cir. 2006) (citing *Kentucky v. Graham*, 473 U.S. 159, 165 (1985)).



claim.”). Furthermore, the Court emphasizes that the “Statement of Claim” requires more than “labels and conclusions or a formulaic recitation of the elements of a cause of action.” *See Neubauer v. FedEx Corp.*, 849 F.3d 400, 404 (8th Cir. 2017). Finally, plaintiff must avoid attempting to amend a complaint by filing separate documents containing changes he wishes to make to certain parts. Instead, plaintiff must file a single comprehensive pleading that sets forth his claims for relief. *See Popoalii v. Correctional Medical Services*, 512 F.3d 488, 497 (8th Cir. 2008) (finding that it is appropriate to deny leave to amend a complaint when a proposed amended complaint was not submitted with the motion).

Plaintiff has also filed a motion to appoint counsel. A *pro se* litigant has “neither a constitutional nor a statutory right to appointed counsel in civil cases.” *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018) (citing *Phillips v. Jasper Cty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006)). A district court may appoint counsel in a civil case if it is “convinced that an indigent plaintiff has stated a non-frivolous claim . . . and where the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel.” *Id.* (citing *Johnson v. Williams*, 788 F.2d 1319, 1322 (8th Cir. 1986)). When determining whether to appoint counsel for an indigent litigant, a court considers relevant factors such as the factual complexity of the issues, the litigant’s ability to investigate the facts and present his claims, the existence of conflicting testimony, and the complexity of the legal arguments. *Id.* (citing *Phillips*, 437 F.3d at 794).

Here, as discussed above, plaintiff has yet to state a non-frivolous claim. Additionally, there is no indication that plaintiff is incapable of representing himself, and nothing in the instant motion or in the record before the Court indicates that the factual or legal issues are sufficiently complex to justify the appointment of counsel. However, recognizing that circumstances may



change, the Court will deny the motion for appointment of counsel without prejudice, and will entertain future such motions, if appropriate, as the case progresses.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion seeking leave to commence this action without prepaying fees or costs (ECF No. 2) is **GRANTED**.

**IT IS FURTHER ORDERED** that, within thirty (30) days of the date of this order, plaintiff must pay an initial filing fee of \$1.00. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) the statement that the remittance is for an original proceeding.

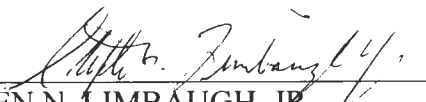
**IT IS FURTHER ORDERED** that the Clerk shall mail to plaintiff a copy of the Court's prisoner civil rights complaint form.

**IT IS FURTHER ORDERED** that, within thirty (30) days of the date of this order, plaintiff must file an amended complaint in accordance with the instructions herein.

**IT IS FURTHER ORDERED** that plaintiff's Motion to Appoint Counsel (ECF No. 4) is **DENIED** without prejudice.

**Plaintiff's failure to timely comply with this order may result in the dismissal of this case, without prejudice and without further notice.**

Dated this 9th day of December, 2021.

  
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STEPHEN N. LIMBAUGH, JR.  
SENIOR UNITED STATES DISTRICT JUDGE